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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/646,850

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EXAMINER

DAYE, CHELCIE L

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/646,850	Applicant(s) MELLENTHIN ET AL.	
	Examiner CHELCIE DAYE	Art Unit 2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23, 24, 27, 29, 30 and 34-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23, 24, 27, 29, 30 and 34-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is issued in response to applicant's RCE filed July 29, 2010.
2. Claims 1-5, 7-8, 10, and 21-39 are presented. No claim added and claims 1-22, 25-26, 28, and 31-33 are cancelled.
3. Claims 23-24, 27, 29-30, 34-39 are pending.
4. Applicant's arguments filed July 29, 2010, have been fully considered but they are not persuasive.

Continued Examination Under 37 CFR 1.114

5. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 15, 2010 has been entered.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 23, 29, 30, and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brand (US Patent Application No. 2003/0183226) in view of "Pipetman - Care and Maintenance", published 2001, referred to hereinafter as 'Pipetman'.

Regarding Claim 23, Brand discloses a method for handling data of a proportioning device for the dosing of liquids, comprising the steps of:

providing the proportioning device for the dosing of liquids ([0002], Brand), in a production process ([0003-0004], Brand), with at least one transponder for contactlessly storing data using a writing device and from which data can be contactlessly read using a reading device ([0054-0055], Brand)¹, the proportioning device being of a portable or stationary design and selected from the group consisting of manually operated pipettes, motor-operated pipettes, manually operated dispensers, and motor-operated dispensers, the proportioning device for the dosing of liquids ([0002] and [0097], Brand),

storing production-related data about the proportioning device, in the production process, into the transponder using the writing device ([0016-0017]; [0030], Brand),

during use of the proportioning device, storing application-related data about the proportioning device in the transponder using the writing device ([0026];[0030];[0096], Brand),

during use of the proportioning device or during maintenance or repair of the proportioning device, fully or partially reading out the stored production related data and the application related data using the reading device ([0018];[0130-0131], Brand),

wherein the application-related specific data stored into the transponder is fully or partially variable ([0084], Brand).

While Brand discloses storing application-related specific data into the transponder. Brand is not as detailed with the data being maintenance and/or repair data.

On the other hand, Pipetman discloses the stored data being maintenance and/or repair data (pgs.1-16, Pipetman). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Pipetman's teachings into the Brand system. A skilled artisan would have been motivated to combine in order to allow the device to maintain valuable information, thus permitting ease of use by the holder.

Regarding Claim 29, the combination of Brand in view of Pipetman, disclose the method wherein the repair data describes a defect (pg.3, Pipetman).

¹ Examiner Notes: The data is wirelessly transferable between the transceivers (see [0032]), therefore contactlessly. Also, the reader corresponds to both the writing device and the reading device (see [0132]).

Regarding Claim 30, the combination of Brand in view of Pipetman, disclose the method wherein the repair data describes a component which has been changed (pg.3, Pipetman).

Regarding Claim 34, the combination of Brand in view of Pipetman, disclose the method wherein the proportioning device is provided with a passive transponder ([0054-0055], Brand).

Regarding Claim 35, the combination of Brand in view of Pipetman, disclose the method wherein at a beginning stage of assembling the proportioning device, a product component is provided with the transponder ([0003] and [0008], Brand).

Regarding Claim 36, the combination of Brand in view of Pipetman, disclose the method wherein the transponder is encapsulated in the proportioning device ([0046-0050], Brand).

8. Claims 24 and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brand (US Patent Application No. 2003/0183226) in view of Boldt (US Patent No. 5,328,597).

Regarding Claim 24, Brand discloses a method for handling data of a proportioning device for the dosing of liquids, comprising the steps of:

providing the proportioning device for the dosing of liquids ([0002], Brand), in a production process ([0003-0004], Brand), with at least one transponder for contactlessly storing data using a writing device and from which data can be contactlessly read using a reading device ([0054-0055], Brand)², the proportioning device being of a portable or stationary design and selected from the group consisting of manually operated pipettes, motor-operated pipettes, manually operated dispensers, and motor-operated dispensers, the proportioning device for the dosing of liquids ([0002] and [0097], Brand),

storing production-related data about the proportioning device, in the production process, into the transponder using the writing device ([0016-0017]; [0030], Brand),

during use of the proportioning device, storing application-related data about the proportioning device in the transponder using the writing device ([0026];[0030];[0096], Brand),

during use of the proportioning device or during maintenance or repair of the proportioning device, fully or partially reading out the stored production related data and the application related data using the reading device ([0018];[0130-0131], Brand),

² Examiner Notes: The data is wirelessly transferable between the transceivers (see [0032]), therefore contactlessly. Also, the reader corresponds to both the writing device and the reading device (see [0132]).

wherein the application-related specific data stored into the transponder is fully or partially variable ([0084], Brand), and storing into the transponder application-related specific data ([0026];[0030];[0096], Brand).

While Brand discloses storing application-related specific data into the transponder. Brand is not as detailed with respect to the data being a date of next calibration.

On the other hand, Boldt discloses disclosing the data being of calibration data (col.11, lines 2-9 and 18-40, Boldt). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Boldt's calibration system into the Brand system. A skilled artisan would have been motivated to combine in order to allow for a flexible device which informs the consumer of the status of the device, which alleviates the need for outside modifications.

Regarding Claim 37, the combination of Brand in view of Boldt, disclose the method wherein the proportioning device is provided with a passive transponder ([0054-0055], Brand).

Regarding Claim 38, the combination of Brand in view of Boldt, disclose the method wherein at a beginning stage of assembling the proportioning device,

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a product component is provided with the transponder ([0003] and [0008], Brand).

Regarding Claim 39, the combination of Brand in view of Boldt, disclose the method wherein the transponder is encapsulated in the proportioning device ([0046-0050], Brand).

9. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brand (US Patent Application No. 2003/0183226) in view of "Pipetman - Care and Maintenance", published 2001, referred to hereinafter as 'Pipetman', further in view of Boldt (US Patent No. 5,328,597).

Regarding Claim 27, the combination of Brand in view of Pipetman, disclose the method wherein calibration data is stored as either production-related specific data or application-related specific data (pgs.1-16, Pipetman). However, Pipetman is not as detailed with respect to the stored data being a date of next calibration.

On the other hand, Boldt discloses the stored data being a data of the next calibration (col.11, lines 2-9 and 18-40, Boldt). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Boldt's teachings into the Brand and Pipetman system. A skilled artisan would have been motivated to combine in order to allow for a flexible device which informs the consumer of the status of the device.

Response to Arguments

Applicant's arguments with respect to the newly amended claims have been considered but are moot in view of the new ground(s) of rejection.

Points of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHELCIE DAYE whose telephone number is (571) 272-3891. The examiner can normally be reached on M-F, 7:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chelcie Daye
Patent Examiner
Technology Center 2100
August 10, 2010

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Supervisory Patent Examiner, Art Unit 2161